

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KAREN L.,

Plaintiff,

v.

6:23-CV-0629
(ML)

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

COLLINS & HASSELER, PLLC
Counsel for the Plaintiff
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SOCIAL SECURITY ADMINISTRATION
Counsel for the Defendant
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Baltimore, Maryland 21235

VERNON NORWOOD, ESQ.
Special Assistant U.S. Attorney

MIROSLAV LOVRIC, United States Magistrate Judge

ORDER

Currently pending before the Court in this action, in which Plaintiff seeks judicial review of an adverse administrative determination by the Commissioner of Social Security, pursuant to 42 U.S.C. § 405(g), are cross-motions for judgment on the pleadings.¹ Oral argument was heard

¹ This matter, which is before me on consent of the parties pursuant to 28 U.S.C. § 636(c), has been treated in accordance with the procedures set forth in General Order No. 18. Under that General Order once issue has been joined, an action such as this is considered procedurally, as if cross-motions for judgment on the pleadings had been filed pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

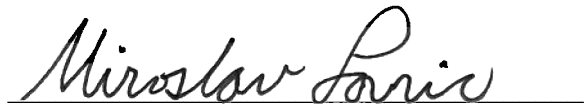
in connection with those motions on August 22, 2024, during a telephone conference conducted on the record. At the close of argument, I issued a bench decision in which, after applying the requisite deferential review standard, I found that the Commissioner's determination was supported by substantial evidence, providing further detail regarding my reasoning and addressing the specific issues raised by Plaintiff in this appeal.

After due deliberation, and based upon the Court's oral bench decision, which has been transcribed, is attached to this order, and is incorporated herein by reference, it is

ORDERED as follows:

- 1) Plaintiff's motion for judgment on the pleadings (Dkt. Nos. 9 & 13) is DENIED.
- 2) Defendant's motion for judgment on the pleadings (Dkt. No. 12) is GRANTED.
- 3) The Commissioner's decision denying Plaintiff Social Security benefits is AFFIRMED.
- 4) Plaintiff's Complaint (Dkt. No. 1) is DISMISSED.
- 5) The Clerk of Court is respectfully directed to enter judgment, based upon this determination, DISMISSING Plaintiff's Complaint in its entirety and closing this case.

Dated: August 30, 2024
Binghamton, New York

A handwritten signature in black ink, reading "Miroslav Lovric", is written over a horizontal line.

Miroslav Lovric
United States Magistrate Judge
Northern District of New York

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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KAREN A. LAWRENCE,

Plaintiff,

vs.

Civil Action No. 6:23cv629

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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Transcript of a Decision from a
Teleconference Hearing held on August 22, 2024, the
HONORABLE MIROSLAV LOVRIC, United States Magistrate
Judge, Presiding.

A P P E A R A N C E S

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1 (The following is an excerpt of a
2 teleconference hearing held on 8/22/2024.)

3 THE COURT: Okay. All right. Well, let me begin
4 my analysis, reasoning and decision as follows:

5 In this case, the Plaintiff has commenced this
6 proceeding pursuant to Title 42 United States Code Section
7 405(g) to challenge the adverse determination by the
8 Commissioner of Social Security finding that she was not
9 disabled at the relevant times and therefore ineligible for
10 the benefits that she sought.

11 By way of background, the Court notes as follows:
12 Plaintiff was born in 1978. She is currently approximately
13 46 years of age. She was approximately 42 years old on the
14 date of her application for benefits.

15 Plaintiff stands approximately 5 feet 4 inches in
16 height and weighs approximately 190 pounds. Plaintiff is a
17 high school graduate who attended regular education classes.
18 Her employment history includes work as an assembly line
19 machine operator.

20 At the time of her administrative hearing on
21 December 7, 2021, Plaintiff lived with her two sons, ages
22 approximately 15 and 12 years of age.

23 Procedurally, in this case, the Court states as
24 follows:

25 Plaintiff applied for Title II and Title XVI

1 benefits on October 15th of 2020, alleging an onset date of
2 July 24th of 2018.

3 In support of her applications for benefits,
4 Plaintiff claims disability based on a number of physical and
5 mental health impairments, including fibromyalgia,
6 degenerative disc disease, arthritis, depression, and
7 anxiety.

8 Administrative Law Judge Robyn L. Hoffman conducted
9 a hearing on December 2nd of 2021, to address Plaintiff's
10 applications for benefits and held a supplemental hearing on
11 June 3, 2022, to hear vocational expert testimony.

12 ALJ Hoffman issued an unfavorable decision on
13 August 3rd of 2022. That decision became the final
14 determination of the agency on May 5th of 2023, when the
15 Appeals Council denied Plaintiff's request for review.

16 This action was commenced on May 25th of 2023, and
17 it is timely.

18 In her August 3, 2022 decision at issue in this
19 case, the ALJ first determined that Plaintiff met the insured
20 status requirements of the Social Security Act through
21 September 30, 2020, and then commented the familiar five-step
22 test for determining disability.

23 At step one, the ALJ concluded that Plaintiff had
24 not engaged in substantial gainful activity since the amended
25 alleged onset date of July 27, 2018.

1 At step two, the ALJ concluded that Plaintiff had
2 the following severe impairments. First, fibromyalgia.
3 Next, lumbar spinal degenerative disc disease. Next, history
4 of carpal tunnel syndrome in the right wrist status-post
5 surgery. Next, mild degenerative joint disease of the right
6 hip. Next, right ear hearing loss. Next, migraines and
7 headaches. And lastly, persistent depressive disorder.

8 At step three, the ALJ concluded that Plaintiff did
9 not have an impairment or combination of impairments that met
10 or medically equaled the severity of any listed impairments.
11 In making this determination, the ALJ expressly considered
12 the following listings: Listing at 1.15, dealing with
13 disorders of the skeletal spine. Listing at 1.16, dealing
14 with lumbar spinal stenosis. Listing at 1.18, dealing with
15 abnormality of a major joint. Listing 11.14, dealing with
16 peripheral neuropathy. And listing 12.04, dealing with
17 depressive bipolar and related disorders.

18 Next, the ALJ determined that Plaintiff has the
19 residual functional capacity also known as RFC to perform
20 less than the full range of light work. Specifically the ALJ
21 found Plaintiff can occasionally lift and carry 20 pounds,
22 frequently lift and carry 10 pounds. Sit for eight hours and
23 stand and/or walk for four hours over the course of an
24 eight-hour workday with normal breaks. The ALJ further
25 found, first, that Plaintiff would need to change positions

1 from sit/stand as needed, but would remain at the work
2 station and on task when changing positions.

3 Second, Plaintiff can occasionally climb ramps or
4 stairs, but never climb ladders, ropes or scaffolds; and that
5 Plaintiff can perform occasional stooping, kneeling,
6 crouching and crawling.

7 Next, that Plaintiff should not work in a noise
8 environment greater than moderate and is limited to work that
9 needs little or no judgment to do simple duties that may be
10 learned on the job in a short period of time. And next that
11 Plaintiff should perform low stress work defined as
12 occasional decision making, occasional judgment required, and
13 occasional changes in the work setting with Plaintiff working
14 at goal oriented rather than production pace rate.

15 At step four, the ALJ relied on the vocational
16 expert testimony to determine that Plaintiff is not able to
17 perform any past relevant work.

18 Again relying on the vocational expert testimony,
19 the ALJ found at step five that considering Plaintiff's age,
20 education, work experience and RFC, that there are jobs
21 existing in significant numbers in the national economy that
22 Plaintiff can perform.

23 Accordingly, the ALJ found that Plaintiff was not
24 disabled from her amended alleged onset date of July 27,
25 2018, through the date of the ALJ's decision.

1 Turning now to the role of the Court, I begin by
2 indicating, as you know, this Court's functional role in this
3 case is limited and extremely deferential. I must determine
4 whether correct legal principles were applied and whether the
5 determination is supported by substantial evidence, which is
6 defined as such relevant evidence as a reasonable mind would
7 find sufficient to support a conclusion. As the Second
8 Circuit noted in *Brault v. Social Security Administration*
9 *Commissioner*, that can be found at 683 F.3d 443, a 2012 case,
10 the standard is demanding more so than the clearly erroneous
11 standard. The Court noted in *Brault* that once there's a
12 finding of fact, that fact can be rejected only if a
13 reasonable factfinder would have to conclude otherwise.

14 Turning now to the arguments presented by the
15 Plaintiff, Plaintiff presents and raises four primary
16 contentions in her filings. First, Plaintiff argues that the
17 ALJ failed to properly assess the combined effects of
18 Plaintiff's physical and mental impairments.

19 Second, Plaintiff argues that the ALJ failed to
20 properly evaluate the medical opinion evidence.

21 Third, Plaintiff argues that the ALJ erroneously
22 excluded any limitations on Plaintiff's use of her upper
23 extremities and hands from the RFC determination.

24 And then fourth, Plaintiff argues that the ALJ
25 failed to properly evaluate Plaintiff's subjective

1 description of her functional limitations.

2 The Court begins its decision and reasoning for my
3 decision as follows: So, first, this Court finds that
4 substantial evidence supports the ALJ's evaluation of the
5 medical opinion evidence addressing Plaintiff's physical and
6 mental impairments for the reasons as set forth in
7 defendant's brief and the Court adds the following analysis
8 and reasoning to its decision.

9 First to begin with, the record does not support
10 Plaintiff's contention that the ALJ failed to properly
11 consider the combined effects of her physical and mental
12 impairments. Rather than addressing each impairment in a
13 vacuum, as depicted in Plaintiff's brief, the ALJ considered
14 the cumulative impact of all impairments on Plaintiff's
15 ability to perform full-time work. Notably, the ALJ rejected
16 a consultative psychiatric opinion as unpersuasive because it
17 failed to recognize the impact that Plaintiff's physical pain
18 had on her depression symptoms. Her RFC analysis also
19 addresses Plaintiff's medical and psychiatric treatment
20 history in greater detail than the narrow analysis in steps
21 two and three of the sequential evaluation. It is evident to
22 the Court that this extensive description of all Plaintiff's
23 impairments also inform the ALJ's evaluation of the various
24 medical opinions.

25 At their most basic, the amended regulations

1 governing evaluation of medical opinion evidence require that
2 the ALJ explain her findings regarding the supportability and
3 consistency for each of the medical opinions pointing to
4 specific evidence in the record supporting those findings.
5 See case of *Raymond M. v Commissioner of Social Security*
6 19-CV-1313. That is a Magistrate Judge Andrew T. Baxter
7 decision, and that can be found at 2021 WL 706645 at page 8.
8 And that's a Northern District New York February 22nd of 2021
9 decision.

10 In this case, the ALJ's decision provided
11 sufficient analysis of the persuasiveness of the medical
12 opinion evidence bolstered by that detailed recitation of the
13 longitudinal treatment record. Although the ALJ did not
14 explicitly discuss the consistency and supportability factors
15 when evaluating each of the eight medical opinions addressed
16 in her decision, her thorough and accurate recitation of the
17 overall medical record allows this Court to glean the
18 rational for the ALJ's evaluation of the persuasiveness of
19 the various opinions.

20 For example, the ALJ's decision cited numerous
21 treatment notes and the physical consultant examination
22 report showing full or near full range of motion and strength
23 in the upper extremities and hands, despite consistent neck,
24 shoulder and back pain and diagnosed carpal tunnel syndrome.
25 Thus, the ALJ marshaled substantial evidence to find a lack

1 of support for PA Melinda Rosner's opinion that Plaintiff had
2 significant limitations in forward and overhead reaching and
3 other use of her upper extremities and hands. See case of
4 *Maria S. vs. Kijakazi*, No. 21-CV-0177. That is a magistrate
5 Judge David Peebles case that can be found at 2022 WL 4619861
6 at page 5. And that is a Northern District New York
7 September 30, 2022 case. In addition, as in the case of
8 *Maria S.*, Plaintiff has not identified any objective evidence
9 that would reasonably call the ALJ's conclusion into
10 question.

11 This Court finds that the ALJ applied the same
12 standard to each of the medical opinions and thus conducted
13 an adequate review for consistency and supportability with
14 each medical professional's own notes, the broader medical
15 record, and the testimonial evidence. For example, the ALJ
16 discounted much of Dr. Sara Long's minimally restrictive
17 consultative psychiatric opinion because she did not have
18 access to Plaintiff's psychiatric treatment record. At the
19 same time, the ALJ rejected the extreme limitations regarding
20 attention, concentration and attendance in the opinions of
21 PA Rosner and therapist Laurie Millard in light of the
22 consistently unremarkable mental status examination results
23 in the record, documented improvement in Plaintiff's mental
24 health symptoms as she progressed in treatment, and
25 Plaintiff's own description of her daily activities that

1 included driving, childcare and performing household chores.
2 Such daily activities, while not dispositive on their own,
3 are a relevant consideration when evaluating a Plaintiff's
4 claimed symptoms and limitations.

5 In formulating Plaintiff's RFC, the ALJ was not
6 required to accept every limitation in the various medical
7 opinions nor craft an RFC mirroring a particular opinion.
8 Here, the ALJ reasonably incorporated those portions of the
9 medical and psychiatric opinions that she deemed were best
10 supported by the longitudinal medical record and Plaintiff's
11 activities of daily life.

12 Plaintiff also contends that the ALJ failed to
13 adequately credit Plaintiff's testimony regarding her
14 functional limitations. Recognizing that a claimant's
15 subjective description of her symptoms cannot alone establish
16 disability and that a review in court must give great
17 deference to the ALJ's assessment of hearing testimony, this
18 court finds that the ALJ marshaled substantial evidence to
19 support her conclusions in this area. In certain instances,
20 such as the need for a sit-stand option and the exacerbation
21 of Plaintiff's mental health symptoms due to her physical
22 pain, the ALJ credited Plaintiff's subjective testimony over
23 contradictory medical opinions and incorporated additional
24 limitations into the RFC. The ALJ discounted other portions
25 of Plaintiff's testimony such as her description of

1 significant difficulties in reaching and handling objects or
2 maintaining attention and concentration, where the ALJ found
3 a lack of support in the broader record.

4 In large measure Plaintiff's challenges to the
5 ALJ's evaluation of the medical opinion and testimonial
6 evidence and the resulting RFC determination are premised on
7 a disagreement over how the ALJ resolved arguably conflicting
8 evidence about Plaintiff's functional limitations. It is not
9 sufficient that reasonable parties could interpret the
10 evidence differently, and it is not the function of this
11 reviewing court to reweigh the evidence. Therefore this
12 court finds no justification for remand for further
13 consideration by the ALJ.

14 Based upon all of this and as a result of this
15 analysis, I find and conclude Plaintiff's motion for judgment
16 on the pleadings is denied. Defendant's motion for judgment
17 on the pleadings is granted. Plaintiff's complaint is
18 dismissed, and the Commissioner's decision denying Plaintiff
19 benefits is hereby affirmed.

20 This constitutes the decision, analysis and
21 reasoning of the Court. As I indicated, I will have
22 transcribed my decision that I just rendered. I will then
23 attach it to a summary order which will be filed in the
24 docket in the near future.

25 All right. I believe that will conclude our

1 proceeding for today. I hope everybody has a good rest of
2 the day.

3 Mr. Hasseler and Mr. Norwood, have a good day and
4 enjoy of the rest of the short summer that's left. And I'm
5 sure we'll see each other somewhere down the road again.

6 MR. NORWOOD: Thank you, your Honor.

7 MR. HASSELER: Thank you, your Honor.

8 (Court adjourned, 1:27 p.m.)
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CERTIFICATE OF OFFICIAL REPORTER

I, LISA M. MAZZEI, RPR, Official U.S. Court
Reporter, in and for the United States District
Court for the Northern District of New York, DO
HEREBY CERTIFY that pursuant to Section 753, Title
28, United States Code, that the foregoing is a true
and correct transcript of the stenographically
reported proceedings held in the above-entitled
matter and that the transcript page format is in
conformance with the regulations of the Judicial
Conference of the United States.

Dated this 29th day of August, 2024.

/S/ LISA M. MAZZEI

LISA M. MAZZEI, RPR
Official U.S. Court Reporter

LISA M. MAZZEI, RPR
Official U.S. Court Reporter